

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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PATSY'S ITALIAN RESTAURANT, INC.,
PATSY'S BRAND, INC.,

Plaintiffs,

- against -

06-CV-0729 (RER)

ANTHONY BANAS d/b/a PATSY'S,
PATSY'S PIZZERIA,

Defendants.

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PATSY'S ITALIAN RESTAURANT, INC.,

Plaintiff and
Counterclaim Defendant,

- against -

06-CV-5857 (RER)

ANTHONY BANAS d/b/a PATSY'S and
PATSY'S PIZZERIA TRATTORIA IMPAZZIRE,
ALLAN ZYLLER d/b/a PATSY'S and PATSY'S
PIZZERIA TRATTORIA IMPAZZIRE, AL &
ANTHONY'S PATSY'S, INC., I.O.B. REALTY,
INC., and PATSY'S, INC.,

Defendants and
Counterclaim Plaintiffs.

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FINAL JUDGMENT

WHEREAS, Plaintiffs Patsy's Italian Restaurant, Inc. and Patsy's Brand, Inc. (collectively, "Plaintiffs"), filed separate complaints against Defendants Anthony Banas ("Banas") and Anthony & Patsy's, Inc. (collectively, the "Staten Island Defendants"), and Banas, Allan Zyller and Al & Anthony's Patsy's, Inc. (collectively, the "Syosset Defendants"), for trademark infringement, unfair competition and injury to business reputation; and

WHEREAS, Patsy's, Inc. and I.O.B. Realty, Inc. (collectively, "I.O.B. Realty") were permitted to intervene in these actions, and assert along with the Staten Island Defendants and the Syosset Defendants (collectively, "Defendants") a counterclaim seeking cancellation of Plaintiffs' trademark registrations; and

WHEREAS, after unnecessarily protracted pre-trial proceedings, these consolidated cases were tried to a jury beginning on March 31, 2008; and

WHEREAS, on April 10, 2008, the jury having returned a special verdict form containing various findings of fact on the parties' respective claims and counterclaims; and

WHEREAS, in response to the parties' post-verdict motions for injunctive relief an Opinion and Order was filed and entered on September 9, 2008, providing for certain injunctive relief against Plaintiffs and Defendants in accordance with the jury's findings of fact;

NOW, THEREFORE, it is hereby ORDERED, ADJUDGED and DECREED as follows:

1. The United States Patent and Trademark Office is ordered to cancel trademark registration number 3,009,836 for the stylized mark PATSY'S PR for restaurant services; and
2. The United States Patent and Trademark Office is ordered to cancel trademark registration number 3,009,866 for the unstylized mark PATSY'S for restaurant services not including pizza; and
3. The United States Patent and Trademark Office is ordered *not* to restore trademark registration number 2,213,574 for the mark PATSY'S PIZZERIA for restaurant services (thereby superceding the prior restoration order of August 8, 2007 issued by the Honorable Dora L. Irizarry); and

4. Plaintiffs, their successors, assigns, officers, directors, servants, employees, distributors, customers, representative, agents and attorneys, and all persons in privity or in active concert or participation with them, or any of them, be and they are hereby permanently enjoined and prohibited from using the mark PATSY'S alone in any advertising, signs, menus or anything similarly associated with their restaurant services; and

5. Defendants their successors, assigns, officers, directors, servants, employees, distributors, customers, representative, agents and attorneys, and all persons in privity or in active concert or participation with them, or any of them, be and they are hereby permanently enjoined and prohibited from using the mark PATSY'S alone in any advertising, signs, menus or anything similarly associated with their pizzeria services; and

6. The Syosset Defendants their successors, assigns, officers, directors, servants, employees, distributors, customers, representative, agents and attorneys, and all persons in privity or in active concert or participation with them, or any of them, be and they are hereby permanently enjoined and prohibited from using the words "Trattoria Impazzire" in any advertising, signs, menus, or anything similarly associated with the restaurant at 407 Jericho Turnpike, Syosset, Long Island, New York (the "Syosset Location"); and

7. The Syosset Defendants their successors, assigns, officers, directors, servants, employees, distributors, customers, representative, agents and attorneys, and all persons in privity or in active concert or participation with them, or any of them, be and they are hereby affirmatively commanded and directed to place and maintain a sign in the door of the Syosset

Location reading: “WE ARE NOT AFFILIATED WITH PATSY’S ITALIAN RESTAURANT LOCATED AT 236 WEST 56TH STREET, NEW YORK, NY,” for not less than three years from the date hereof; and

8. That all other claims and counterclaims between the parties are hereby dismissed.

Dated: **Brooklyn, New York**
 September 10, 2008

Ramon E. Reyes, Jr.
RAMON E. REYES, JR.
United States Magistrate Judge